



week in which lead counsel for Plaintiffs is out of office for personal matters and that includes the upcoming Thanksgiving holiday.

Further, on November 17, 2017, Kenneth Chaiken, counsel for Defendants, stated in an email that Defendants intend to file an amended Motion seeking expanded or alternative relief. Plaintiffs respectfully submit that they should be required to respond to the amended Motion, as certain aspects of Defendants' requested relief appear likely to change.

Moreover, Plaintiffs seek an extension so that they may adequately respond to the Motion. Although styled as a motion to "clarify or modify," the Motion essentially requests the issuance of a mandatory injunction ordering Plaintiffs to pay off the Chase construction loan (with a balance in excess of \$26 million) to the Partnership and the lien filed against the Partnership by Weis Builders, Inc. (in the amount of approximately \$3.25 million). The Motion provides no legal or factual basis that could conceivably support such a sweeping request.

Further, as demonstrated by the removed state court action currently pending before the Court as Case No. 1:17-cv-01081-RP, PNC has already purchased the Chase construction loan in full; thus, there is no danger of any foreclosure against the Partnership's property, and PNC has fully fulfilled its promises to the Court. Further, as the Court is aware, the Weis Builders lien is the subject of ongoing state court litigation pending in Travis County, Texas; any enforcement action related to that lien could take place only after a final judgment, and trial has yet to be scheduled in that matter. For these reasons, there is no risk of any harm to the Partnership from either of these matters during the next 10 days.

This motion is not brought for purposes of delay, but rather so that justice may be served. Further, a brief, 10-day extension will not impact the resolution of this case.

Counsel for Plaintiffs has conferred with Kenneth Chaiken, counsel for Defendants, and he has stated that he is unopposed to the relief requested in this Motion. Thus, Plaintiffs' request will not prejudice Counterclaimants.

## **II. CONCLUSION**

For these reasons, Plaintiffs request that the Court extend their deadline to file a response to the Motion through and including November 30, 2017, and for such other relief to which they may be justly entitled.

Dated: November 17, 2017.

By: /s/ Robert M. Hoffman

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**CERTIFICATE OF CONFERENCE**

I certify that on November 15, 2017, and again on November 17, 2017, I conferred with Kenneth Chaiken, counsel for Defendants, via email, and he indicated that Defendants are not opposed to the relief requested in this Motion. Mr. Chaiken first attempted to condition that consent on an agreement by Plaintiffs' counsel to consolidate this action with the Chase guaranty suit, in which Plaintiff's counsel do not represent PNC. He appears to have abandoned that condition. At opposing counsel's request, a copy of the relevant emails related to the conference is attached to this motion as **Exhibit A**.

/s/ Robert M. Hoffman

Robert M. Hoffman

**CERTIFICATE OF SERVICE**

I certify that on November 17, 2017, a copy of the foregoing document was served on all counsel of record in this case through the Court's CM/ECF facilities.

/s/ Robert M. Hoffman

Robert M. Hoffman